

BILL ANALYSIS

Senate Research Center

S.B. 1781
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Enrolled

DIGEST AND PURPOSE

Currently, when a court determines that a defendant charged with a felony or misdemeanor punishable by imprisonment is indigent or that the interest of justice requires representation of a defendant in a criminal proceeding, the court is required to appoint one or more practicing attorneys to defend him. However, several counties in the state, including Potter County, have requested new statutes to allow them to establish a public defender's office to allow for a more efficient process. S.B. 1781 allows the Potter County Commissioners Court to establish a public defender's office in the event the commissioners court determines that the establishment of such an office would result in adequate representation of indigent individuals who are entitled to taxpayer-funded legal representation at less expense than the current system of appointing local attorneys to represent indigent individuals.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 26, Code of Criminal Procedure, by adding Article 26.054, as follows:

Art. 26.054. PUBLIC DEFENDER IN POTTER COUNTY. (a) Authorizes the Commissioners Court of Potter County to appoint an attorney to serve as a public defender and provides that the public defender serves at the pleasure of the commissioners court.

(b) Sets forth eligibility requirements for appointment as a public defender.

(c) Authorizes the public defender to employ certain personnel, with the approval of the commissioners court. Requires an assistant public defender to be a licensed attorney and authorizes an assistant public defender to perform the duties of a public defender under this article.

(d) Provides that Chapter 152B (Amount of Compensation, Expenses, and Allowances Generally Applicable), Local Government Code, applies to the compensation of personnel and the payment of office expenses in the public defender's office.

(e) Prohibits a public defender or an assistant public defender from performing certain functions except as authorized by this article.

(f) Authorizes the commissioners court to remove a public defender or an assistant public defender who violates Subsection (e).

(g) Requires the public defender or an assistant public defender to represent indigent persons who meet certain requirements.

(h) Authorizes the commissioners court to specify other types of cases in which the public defender or an assistant public defender is authorized to represent indigent persons.

(i) Authorizes the public defender or an assistant public defender to investigate the financial condition of any person the public defender is appointed to represent. Requires the public defender to report the results of the investigation to the appointing judge. Authorizes the judge to hold a hearing to determine if the person is indigent and entitled to representation under this article.

(j) Authorizes the judge, under certain conditions, to appoint another attorney to represent the person. Requires the attorney to be licensed to practice law in this state and provides that the attorney is entitled to the compensation provided by Article 26.05.

(k) Authorizes the commissioners court to accept gifts and grants from any source to finance an adequate and effective public defender program.

SECTION 2. Effective date: upon passage or September 1, 2001.